

Remarks/Arguments

In the non-final Office Action dated April 30, 2008, it is noted that claims 1-7 are pending; that claims 1-3 and 7 stand rejected under 35 U.S.C. §102; that claims 4-6 stand rejected under 35 U.S.C. §103; that objections have been raised with respect to the drawing; that the claim for foreign priority under 35 U.S.C. §119 has been acknowledged; and that all certified copies of the priority documents have been received.

By this response, claim 7 has been amended and the drawing has been amended as discussed above. Claim 7 has been amended to convert the commas to decimal points. No new matter has been added.

Objection to the Drawing

The drawing has been objected to on several different grounds relating to the thickness of the color filter layer 125. Figure 1 has been amended to correct an inadvertent error relating to the thickness of color filter layer 125. An arrow has been added to the portion of color filter layer 125 in the transmissive region (101T) of the device. The arrow is employed to indicate that the denoted portion of color filter layer 125 can have a thickness that is different from the thickness for color filter layer 125 in the reflective regions (101R) of the device. This change is supported by the original specification at page 3, lines 14-18 and at page 6, lines 33-34, for example, and by Figure 1 as originally filed. As presently depicted in the drawing, it is submitted that the gap, d_T , is measured correctly in Figure 1. The amendment to Figure 1 is proper and justified. No new matter has been added.

In view of the amendment to Figure 1, it is believed that the grounds for objection have been obviated. Withdrawal of this objection is respectfully requested.

Cited Art

The references cited and applied against the claims are listed as follows: U.S. Patent Application Publication No. 2004/0105059 to Ohyama et al. (hereinafter referenced as “*Ohyama*”) and European Patent No. 1 109 053 to Tetsuo et al. (hereinafter referenced as “*Tetsuo*”).

Rejection of Claims 1-3 and 7 under 35 U.S.C. §102

Claims 1-3 and 7 stand rejected under 35 U.S.C. §102 as being anticipated by Ohyama. Claim 7 has been amended as noted above. This rejection is respectfully traversed.

Claims 1 and 2 are independent base claims. Claims 3 and 7 depend directly from claim 1.

It is noted in the *Notice of Acceptance of Application Under 35 U.S.C. 371 and 37 C.F. R. 1.495* mailed on April 18, 2006 that the priority date for the present application is June 12, 2003. The application was originally filed in English as shown in the certified copy of the original application on file in the USPTO prosecution history.

Ohyama is a U.S. Patent application filed on November 14, 2003. The U.S. filing date for Ohyama is **subsequent** to the priority date for the present application by **more than 7 months**. Ohyama is not available as prior art under the statutes. Additionally, any foreign publication date possible for either one of the Ohyama priority applications (i.e., 18 months from filing in Japan) is also subsequent to the U.S. filing date for this application. Accordingly, Ohyama is not available as a published foreign reference. As a result, it is submitted that the present Office Action fails to state a *prima facie* case of anticipation in view of Ohyama.

In light of these remarks, Ohyama is an improper reference and does not anticipate or make obvious claims 1-3 and 7. Thus, it is submitted that claims 1-3 and 7 are allowable under both 35 U.S.C. §102 and 35 U.S.C. §103.

Rejection of Claims 4-6 under 35 U.S.C. §103

Claims 4-6 stand rejected under 35 U.S.C. §103 as being unpatentable over Ohyama in view of Tetsuo. This rejection is respectfully traversed.

Claim 4 depends directly from claim 1 and includes all the limitations of the base independent claim. Claims 5 and 6 depend directly from claim 4.

As noted in the section immediately above, Ohyama is believed to be unavailable as a prior art reference against the claims in this application.

Tetsuo has been discussed in the prior response and has been distinguished from the claimed invention herein. Tetsuo alone does not teach, show, or suggest all the elements of the invention defined in claim 4. For example, there is no teaching in Tetsuo of the optical retarder and the limitations pertaining thereto.

In light of the remarks presented directly above and also in view of the remarks presented with respect to claim 1 in the immediately preceding section, it is believed that claims 4-6 would not have been obvious to a person of ordinary skill in the art upon a reading of Ohyama and Tetsuo, either separately or in combination. Therefore, it is submitted that claims 4-6 are allowable under 35 U.S.C. §103. Withdrawal of this rejection is respectfully requested.

Conclusion

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Reconsideration and allowance of all the claims are respectfully solicited.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 14-1270.

Respectfully submitted,

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